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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

IN RE: FACEBOOK, INC. CONSUMER  
PRIVACY USER PROFILE LITIGATION

MDL No. 2843  
Case No. 18-md-02843-VC-JSC

This document relates to:

ALL ACTIONS

**PLAINTIFFS' STATUS UPDATE**

Judges: Hon. Vince Chhabria and  
Hon. Jacqueline Scott Corley  
Courtroom: VIA VIDEOCONFERENCE  
Hearing Date: June 23, 2021  
Hearing Time: 8:30 a.m.

The parties were unable to agree on a Joint Statement. As such, Plaintiffs submit the following statement:

Since the last discovery conference, the parties have continued to work through selected discovery disputes in joint and *ex parte* mediation sessions with Judge Andler and Mr. Garrie. The parties have agreed upon a mediator to discuss possible case resolution, and are prepared to discuss that with Judge Chhabria in the Case Management Conference this Thursday, June 24.

Despite some progress, numerous significant issues are not yet resolved. This includes the rate of document production and the scope of relevant discovery in the case, issues that prompted the Court to propose discovery mediation, including the outstanding issue of a proposed case management schedule. Because there is some ambiguity and disagreement about the scope of “mediation confidentiality,” Plaintiffs cannot explain the scope of impasse with specificity. But threshold issues, including issues that led the Court to propose the parties engage in discovery mediation, remain unresolved. Given the number of unresolved issues, Plaintiffs believe that the appointment of a Special Master pursuant to Federal Rule of Civil Procedure 53 is appropriate. This role would supplement, not supplant, Your Honor’s role.<sup>1</sup> The use of Special Masters is routine in MDL cases. In this case in particular, the technical complexity of the issues the parties have yet to resolve requires the appointment of an expert who has the time and technical background to engage with the parties on a weekly basis to study and frame the issues, and also has the power to guide the parties to reasonable positions. This role would be akin to the Technology Master described in Section 1 of the Academy of Court-Appointed Masters Benchbook (the “Benchbook”).<sup>2</sup>

Specifically, Plaintiffs recommend that Mr. Garrie be granted a Rule 53 appointment, with Judge Andler retaining her role as a neutral mediator of disputes. Mr. Garrie has served as a

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<sup>1</sup> Guidelines for the Appointment and Use of Special Masters, Guideline 4.

<sup>2</sup> [https://www.courtappointedmasters.org/acam/assets/File/public/handbook/section\\_1.pdf](https://www.courtappointedmasters.org/acam/assets/File/public/handbook/section_1.pdf) (describing that a “Technology Master,” such as “[a] master[] with technical expertise can be very helpful,” “[i]n cases intertwined with technology, scientific, or complex issues” and “can provide the courts and parties with the expertise necessary to understand and resolve problems.”)

Rule 53 Special Master, including on technical issues, before. Absent agreement with Facebook, Plaintiffs will bring a motion seeking this appointment.

Dated: June 22, 2021

Respectfully submitted,

KELLER ROHRBACK L.L.P.

BLEICHMAR FONTI & AULD LLP

By: /s/ Derek W. Loeser  
Derek W. Loeser

By: /s/ Lesley E. Weaver  
Lesley E. Weaver

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**ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)**

I, Derek W. Loeser, attest that concurrence in the filing of this document has been obtained from the other signatory. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 22nd day of June, 2021, at Seattle, Washington.

/s/ Derek W. Loeser

Derek W. Loeser

**CERTIFICATE OF SERVICE**

I, Sarah Skaggs, hereby certify that on June 22, 2021, I electronically filed the foregoing with the Clerk of the United States District Court for the Northern District of California using the CM/ECF system, which shall send electronic notification to all counsel of record.

**In addition, the following were served via email:**

Anjeza Hassan  
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/s/ Sarah Skaggs  
Sarah Skaggs